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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

11 DAVID MICHAEL STEINHAUER,                          )  
12    Petitioner,   )  
13   vs.    )  
14 E. K. McDANIEL, *et al.*,                            )  
15   Respondents.    )  
16 \_\_\_\_\_ /

3:08-cv-00619-LRH-VPC

ORDER

17         This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 12,  
18 2009, petitioner filed a motion for appointment of counsel (Docket #42.) On November 17, 2009,  
19 petitioner filed a motion to supplement his motion for appointment of counsel with exhibits.  
20 (Docket #43.) In his motion, petitioner argues that counsel should be appointed for him because  
21 Lovelock Correctional Institution's policy of not allowing inmates physical access to the library has  
22 exposed him to assault.

23         There is no constitutional right to appointed counsel for a federal habeas corpus proceeding.  
24 *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.  
25 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191,  
26 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th

1 Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of  
2 the case are such that denial of counsel would amount to a denial of due process, and where the  
3 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See*  
4 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

5 There is no requirement or provision for appointment of counsel based on institutional  
6 security issues. The petition on file in this action is well-written and clearly presents the issues that  
7 petitioner wishes to bring. The papers petitioner continues to file amply demonstrate petitioner's  
8 ability to litigate this case. The court finds no basis for the appointment of counsel

9 **IT IS THEREFORE ORDERED** that the motion appointment of counsel (Docket #42) is  
10 **DENIED**.

11 **IT IS FURTHER ORDERED** that the motion to supplement the motion with exhibits  
12 (Docket #43) is **DENIED** as moot.

13 DATED this 24<sup>th</sup> day of November, 2009.



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16 LARRY R. HICKS  
17 UNITED STATES DISTRICT JUDGE  
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